



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 26, 2019
MOAHR Docket No.: 19-007766
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 22, 2019, from Lansing, Michigan. Petitioner represented herself and her granddaughter [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by Robin Morales-Oscoy.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,102. Exhibit A, pp 28-30.
2. Petitioner receives monthly earned income from employment in the gross monthly amount of \$725. Exhibit A, p 31.
3. Petitioner's granddaughter receives monthly earned income from employment in the gross monthly amount of \$870. Exhibit A, p 33.
4. Respondent is responsible for a \$45 premium for her Medical Assistance (MA) benefits. Exhibit A, p 26.

5. On July 18, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective August 1, 2019. Exhibit A, pp 18-22.
6. On July 23, 2019, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit A, pp 5-6.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

Petitioner receives monthly RSDI in the gross monthly amount of \$1,102. Petitioner also receives earned income in the gross monthly amount of \$725, which was determined by converting her \$168.62 weekly gross pay to a prospective monthly amount using the 4.3 conversion factor as directed by BEM 505. Petitioner's granddaughter received earned income in the gross monthly amount of \$870, which

was determined by converting her \$404 bi-weekly gross pay to a prospective monthly amount using the 2.15 conversion factor as directed by BEM 505.

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. A FAP group is not required to but may voluntarily report changes during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8 – 9.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

Petitioner is responsible for a \$45 premium for her Medicaid health coverage, which entitles her to a \$10 deduction from the gross household income for the amount that exceeds \$35 as directed by BEM 556.

Petitioner's adjusted gross income of \$2,210 was determined by reducing the total household's gross monthly income by the \$158 standard deduction, a 20% earned income deduction, and the \$10 medical deduction.

Petitioner is entitled to a \$238 shelter deduction, which was determined by reducing the sum of her \$800 rent and the \$543 standard heat and utility deduction by 50% of her adjusted gross income.

On July 23, 2019, the Department received verification that Petitioner's monthly rent would increase to \$825. This untimely report of an increase of housing expenses was not available to the Department on July 18, 2019, and could not be applied to Petitioner's eligibility for FAP benefits while unverified.

Petitioner's net income of \$1,972 was determined by reducing her adjusted gross income by the shelter deduction. A group of three with a net income of \$1,972 is not entitled to any FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2018), p 1.

Petitioner questioned why her granddaughter and her income was applied towards her eligibility for FAP benefits.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. A caretaker provides care to a child under 18 who lives with the caretaker. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2019), pp 1-2.

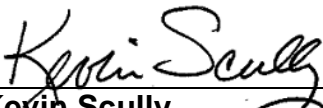
Since Petitioner's granddaughter lives in her home and is under 18-years-old, the granddaughter must be included in her FAP benefits group. Because of this, the granddaughter's income is also countable towards eligibility for FAP benefits.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits effective August 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Chelsea McCune
27690 Van Dyke
Warren, MI 48093

Macomb County (District 20), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]